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Supreme Court, U. S.
FILED
AUG 17 1972
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

October Term, 1971

No. 71-1708

MICHAEL BUDZANOSKI, etc., *et al.*,
Petitioners,

vs.

FRANK SABOLSKY, etc., *et al.*,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT.

PETITIONERS' REPLY TO RESPONDENTS' BRIEF IN OPPOSITION

EDWARD L. CAREY, ESQUIRE,
900 15th Street, N. W.,
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412-881-7403

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No. 71-1708

MICHAEL BUDZANOSKI, etc., *et al.*,
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FRANK SABOLSKY, etc., *et al.*,
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On Writ of Certiorari to the United States Court of Appeals for the Third Circuit.

PETITIONERS' REPLY TO RESPONDENTS' BRIEF IN OPPOSITION

In reply to Respondents' Opposition, Petitioners respectfully offer, for completion of the record in the within matter, the fact that the necessary copies for filing and service of the Petition for Writ of Certiorari were mailed on June 23, 1972 by Batavia Times Publishing Company from the First Class Post Office in Batavia, New York by Special Delivery mail (Appendix A, Affidavit of A. Gerald Kleps).

Subsequently, counsel for Petitioners were advised, by the Office of the Clerk, that the Petitions had not been delivered by the United States Postal Service until June 28, 1972, but that the mailing on June 23, 1972, had been verified from the markings on the package. Petitioners' counsel were also advised that the Petition had been docketed with a time question noted thereon. Since receiving such advice, Petitioners' counsel have been attempting to determine how it could take the United States Postal Service five (5) days to deliver First Class, Special Delivery mail from Batavia, New York to Washington, D. C., but have received no satisfactory explanation.

Petitioners urge that no prejudice has resulted by reason of these circumstances which were not within Petitioners' control, and respectfully request your Honorable Court to consider the Petition, in view of the important questions of federal law involved.

Respectfully submitted,

EDWARD L. CAREY, ESQUIRE,
900 15th Street, N. W.,
Washington, D. C. 200005,

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Pittsburgh, Pa., 15219.

APPENDIX "A"

Affidavit of A. Gerald Kleps, President of the Batavia Times Publishing Company

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BATAVIA, N. Y. 14020

State of New York)
County of Genesee)ss.: RE: Michael Budzanoski, etc., et al.
City of Batavia)
v.
Frank Sabolsky, etc., et al.

I, *A. Gerald Kleps* being duly sworn say: I am over eighteen years of age and an employee of the Batavia Times Publishing Company, Batavia, New York.

On the *23* day of *June, 1972* we mailed the *petitions for Writ of Certiorari* in the above case for Attorney Lloyd F. Engle, Jr. 1512 Frick Building, Pittsburgh, Pennsylvania. These petitions were mailed as follows:

40 copies to: Hon. E. Robert Seaver, Clerk
U. S. Supreme Court
U. S. Supreme Court Building
First Street, N. E.
Washington, D. C. 20543

five copies to: Kenneth J. Yablonski, Esq.
505 Washington Trust Building
Washington, Pa. 15301

five copies to: Joseph A. Yablonski, Esq.
1812 N. Street, N. W.
Washington, D. C. 20016

These were mailed at the First Class Post Office in Batavia, New York. The package was mailed Special Delivery at about 4:00 P. M.

A. GERALD KLEPS

Sworn to before me this
3 day of *August*, 19*72*
State of New York
County of Genesee

GEORGE E. SMITH, JR.
GEORGE E. SMITH, JR.
Notary Public, State of N. Y., Genesee County
My Commission Expires March 30, 1974